

**2013 DRAFTING REQUEST****Bill**

Received: **9/27/2013** Received By: **tkuczens**  
 Wanted: **As time permits** Same as LRB:  
 For: **Mandela Barnes (608) 266-3756** By/Representing: **Katie Bender-Olson**  
 May Contact: Drafter: **tkuczens**  
 Subject: **Elections - miscellaneous** Addl. Drafters:  
 Extra Copies: **jtk, jk**

Submit via email: **YES**  
 Requester's email: **Rep.Barnes@legis.wisconsin.gov**  
 Carbon copy (CC) to: **katie.bender-olson@legis.wisconsin.gov**  
**tracy.kuczenski@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Misleading election information

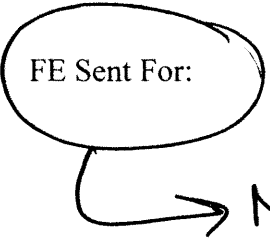
**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 10/1/2013			_____			
/P1	tkuczens 11/21/2013	jdye 11/22/2013	jmurphy 11/22/2013	_____	sbasford 10/2/2013		Crime
/P2	tkuczens	jdye		_____	srose		Crime

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/28/2014	1/28/2014		_____	11/22/2013		
/1			jmurphy	_____	sbasford	srose	Crime
			1/28/2014	_____	1/28/2014	1/28/2014	



FE Sent For:

<END>

Not  
Needed

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/P2					srose		Crime

Vers. Drafted

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11/22/2013

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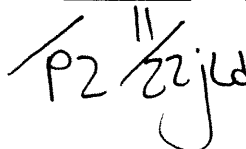

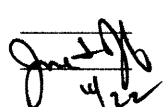
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## **Instructions:**

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/?	tkuczens	PI 10/2 jk	jm 10/2	self			

FE Sent For:

<END>



## Kuesel, Jeffery

**From:** Bender-Olson, Katherine  
**Sent:** Thursday, September 19, 2013 2:53 PM  
**To:** Kuesel, Jeffery; Kreye, Joseph; Kuczenski, Tracy  
**Cc:** Jacobson, John  
**Subject:** Drafting Request for Rep. Barnes - Misleading Election Information

Good afternoon,

I have an elections-related drafting request from Rep. Barnes. I did not know who will handle this, so I am emailing it to all three of you.

Rep. Barnes would like to request a draft that prohibits false representations relating to the time, manner, or place where elections are held or to voter qualifications. As I understand it, the request is an attempt to criminalize deliberately misleading communications intended to prevent or discourage individuals from voting. For example, the draft legislation is intended to prevent robocalls or door-to-door visits informing voters that "Individuals in your neighborhood vote on Wednesday" or "You cannot vote if anyone in your family has been convicted of a crime."

Specifically, Rep. Barnes would like to create a provision within Chapter 12, *Prohibited election practices*, that prohibits false representations regarding the times, locations, regulations, requirements, or qualifications for voting made within the 60 days prior to an election and made with the intent to prevent or discourage a voter from exercising his or her franchise. Rep. Barnes would like a violation of this provision to be a Class I felony under s. 12.60 (1) (a), Stats.

*Specify fine or imprisonment?*

In addition, Rep. Barnes would like to require the Attorney General to: (a) investigate any claims of a violation; and (b) prosecute a violation or refer the matter to the local district attorney for prosecution. He would also like to require that, when the Attorney General or Government Accountability Board (GAB) is notified of a claimed violation, the GAB must issue correct election information to voters in the areas affected by the violation as soon as practicable.

Please let me know if you have questions relating to these drafting instructions.

The contact person for the request is John Jacobson, the staff person in Rep. Barnes's office. Rep. Barnes has requested a draft by next week, so you may wish to discuss this issue with John.

Thank you,  
Katie

Katie Bender-Olson  
Wisconsin Legislative Council  
(608) 266-2988  
[katie.bender-olson@legis.wisconsin.gov](mailto:katie.bender-olson@legis.wisconsin.gov)

Per John J: re: 3271/P1  
→ eliminate time (60 days)  
→ eliminate role of AG in receiving complaint  
→ address concern re: radio/media outlet liability for dissemination of false information.

(1) numbered complaint only  
(2) AG info to GAB  
(3) GAB decides what to do (may dismiss)  
Notwithstanding s. 5.05(2m)

\* penalty provision in rel clause



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-32712-PI

TKK:.....

RMR Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10/1/13

soon

X

Gen

1

AN ACT ...; relating to: deceptive election practices and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, no person may post or distribute any written material that describes the rights or responsibilities of individuals voting or registering to vote at a polling place or absentee voting site during any of the following times: 1) during polling hours at a polling place; 2) while voting is underway at an absentee voting site; or 3) on public property within 100 feet of an entrance to a building containing a polling place or an absentee voting site during polling hours or while absentee voting is underway. A person who violates any of these prohibition may be required to pay a forfeiture (civil penalty) of not more than \$100 for each violation. Also under current law, no person may knowingly make or publish or cause to be made or published a false representation pertaining to a candidate or referendum that is intended to affect voting at an election. A person who violates this prohibition may be fined not more than \$1,000 or imprisoned for not more than six months, or both.

This bill prohibits any person from knowingly providing false election-related information to an individual within 60 days prior to an election with the intent to induce an individual to refrain from registering to vote or from voting at an election. The bill defines election-related information as information concerning any of the following: 1) the date, time, place, or manner of conducting an election; and 2) any qualification for or restriction on the eligibility of an elector voting at an election, including any criminal penalty associated with voting in an election or a voter's registration status or eligibility. A person who violates this provision is guilty of a Class I felony and may be subject to a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

\*

three

six

The bill permits a person who believes a violation has occurred to file a verified complaint with the attorney general or with the Government Accountability Board (board). The board must review the complaint to determine whether the alleged facts would constitute a violation. If the board determines that the facts, if true, would constitute a violation, the board must investigate the complaint and, if appropriate, forward the complaint to the attorney general for prosecution. The board must also take any action necessary to provide correct election-related information to those persons who might have received false election-related information. In lieu of prosecuting the action, the bill permits the attorney general to forward the prosecution to the district attorney for the county in which the violation is alleged to have occurred.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 12.15 of the statutes is created to read:

2           **12.15 Deceptive election practices.** (1) In this section, "election-related  
3 information" means information concerning any of the following:

4           (a) The date, time, place, or manner of conducting an election.

5           (b) Any qualification for or restriction on the eligibility of an elector voting at  
6 an election, including any criminal penalty associated with voting in an election or  
7 a voter's registration status or eligibility.

8           (2) No person may knowingly provide false election-related information to an  
9 individual within 60 days prior to an election with intent to induce an individual to  
10 refrain from registering to vote or from voting at an election.

      \*\*\*\*NOTE: The drafting instructions directed me to prohibit false representations within the 60 days prior to an election. Is it your intent that false information provided 61 days before the election is neither prohibited nor punishable under the statutes?

11           (3) Any person may file a verified complaint with the attorney general or with  
12 the board alleging the facts that the person believes to constitute a violation of sub.

(2).<sup>✓</sup> A verified complaint filed with the board shall be filed under s. 5.05 (2m) (c).<sup>✓</sup> The attorney general shall forward any complaint received under this<sup>✓</sup> subsection to the board.<sup>✓</sup>

\*\*\*\*NOTE: Given that the board is tasked with investigating any complaint received under this subsection, is there any reason for the attorney general to receive complaints?

(4) Notwithstanding s. 5.05 (2m) (c),<sup>✓</sup> the board shall promptly review each complaint received under sub. (3).<sup>✓</sup> If the board determines that the facts alleged in the complaint, if true, would constitute a violation of sub. (2),<sup>✓</sup> the board shall promptly investigate the complaint. Notwithstanding s. 5.05 (2m) (c) 11.,<sup>✓</sup> if the board finds that a violation of sub. (2)<sup>✓</sup> has occurred or is occurring, the board shall take all measures necessary to provide correct information to electors who may have been deceived by the false election-related information,<sup>✓</sup> and shall refer the matter to the attorney general for prosecution in accordance with ss. 5.05 (2m) (i) and 12.60 (4).<sup>✓</sup>

**SECTION 2.** 12.60 (1) (a)<sup>✓</sup> of the statutes is amended to read:

12.60 (1) (a) Whoever violates s. 12.09, 12.11 or,<sup>✓</sup> 12.13 (1), (2) (b) 1. to 7.,<sup>✓</sup> or (3) (a), (e), (f), (j), (k), (L), (m), (y),<sup>✓</sup> or (z),<sup>✓</sup> or 12.15<sup>✓</sup> is guilty of a Class I felony.

**History:** 1973 c. 334; 1975 c. 85; 1977 c. 418 s. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304; 1997 a. 283; 1999 a. 49; 2001 a. 109; 2005 a. 451; 2007 a. 1.

**History:** 12.60">

**History:** 1973 c. 334; 1975 c. 85; 1977 c. 418 s. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304; 1997 a. 283; 1999 a. 49; 2001 a. 109; 2005 a. 451; 2007 a. 1.

**SECTION 3.** 12.60 (4)<sup>✓</sup> of the statutes is amended to read:

12.60 (4) Prosecutions under this chapter shall be conducted in accordance with s. 11.61 (2), except that prosecutions for alleged violations of s. 12.15<sup>✓</sup> shall be conducted by the attorney general or, if the attorney general declines to prosecute a violation, by the district attorney for the county where the violation is alleged to occur.<sup>✓</sup>

**History:** 1973 c. 334; 1975 c. 85; 1977 c. 418 s. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304; 1997 a. 283; 1999 a. 49; 2001 a. 109; 2005 a. 451; 2007 a. 1.

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**SECTION 4.** 165.25 (18) of the statutes is created to read:

1           165.25 (18) ✓ VOTER INTIMIDATION AND SUPPRESSION. Investigate and prosecute  
2           violations of s. 12.15 ✓ or, if the attorney general declines to prosecute a violation, refer  
3           the matter to the appropriate district attorney under s. 12.60 (4). ✓ All expenses of the  
4           proceedings shall be paid from the appropriation under s. 20.455 (1) (d). ✓

5           **SECTION 5.** 978.05 (1) ✓ of the statutes is amended to read:

6           978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute  
7           all criminal actions before any court within his or her prosecutorial unit and, except  
8           for actions arising from violations of s. 12.15 ✓, have sole responsibility for prosecution  
9           of all criminal actions arising from violations of chs. 5 to 12, subch. III of ch. 13, or  
10          subch. III of ch. 19 and from violations of other laws; ✓ arising from or in relation to  
11          the official functions of the subject of the investigation or any matter that involves  
12          elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or  
13          subch. III of ch. 19, that are alleged to be committed by a resident of his or her  
14          prosecutorial unit, or if alleged to be committed by a nonresident of this state, that  
15          are alleged to occur in his or her prosecutorial unit unless another prosecutor is  
16          substituted under s. 5.05 (2m) (i) or this chapter; ✓ or arising ✓ by referral of the  
17          government accountability board under s. 5.05 (2m) (c) 15. or 16. For purposes of this  
18          subsection, a person other than a natural person is a resident of a prosecutorial unit  
19          if the person's principal place of operation is located in that prosecutorial unit.

**History:** 1989 a. 31, 117, 336; 1991 a. 16, 32, 39; 1993 a. 98; 1995 a. 27 ss. 7291, 7292, 9116 (5), 9130 (4); 1995 a. 77, 201, 448; Sup. Ct. Order No. 96-08, 207 Wis. 2d  
xv (1997); 1997 a. 3, 35, 73; 1999 a. 9; 2001 a. 16; 2005 a. 25, 434; 2007 a. 1; 2007 a. 20 ss. 3927, 9121 (6) (a); 2011 a. 32.

(END)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3271/P1 P2  
TKK:jld:jm  
insert  
RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

11/21/13  
5007

Regen

1 AN ACT *to amend* 12.60 (1) (a), 12.60 (4) and 978.05 (1); and *to create* 12.15 and  
2 165.25 (18) of the statutes; **relating to:** deceptive election practices and  
3 providing a penalty.

---

***Analysis by the Legislative Reference Bureau***

Under current law, with certain exceptions, no person may post or distribute any written material that describes the rights or responsibilities of individuals voting or registering to vote at a polling place or absentee voting site during any of the following times: 1) during polling hours at a polling place; 2) while voting is underway at an absentee voting site; or 3) on public property within 100 feet of an entrance to a building containing a polling place or an absentee voting site during polling hours or while absentee voting is underway. A person who violates any of these prohibition may be required to pay a forfeiture (civil penalty) of not more than \$100 for each violation. Also under current law, no person may knowingly make or publish or cause to be made or published a false representation pertaining to a candidate or referendum that is intended to affect voting at an election. A person who violates this prohibition may be fined not more than \$1,000 or imprisoned for not more than six months, or both.

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Insert analysis ✓

including any criminal penalty associated with voting in an election or a voter's registration status or eligibility. A person who violates this provision is guilty of a Class I felony and may be subject to a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

The bill permits a person who believes a violation has occurred to file a verified complaint with the attorney general or with the Government Accountability Board (board). The board must review the complaint to determine whether the alleged facts would constitute a violation. If the board determines that the facts, if true, would constitute a violation, the board must investigate the complaint and, if appropriate, forward the complaint to the attorney general for prosecution. The board must also take any action necessary to provide correct election-related information to those persons who might have received false election-related information. In lieu of prosecuting the action, the bill permits the attorney general to forward the prosecution to the district attorney for the county in which the violation is alleged to have occurred.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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Insert 2-end ✓

(4) (3) Any person may file a verified complaint with the attorney general or with the board alleging the facts that the person believes to constitute a violation of sub.

(2). <sup>The</sup> A verified complaint filed with the board shall be filed under s. 5.05 (2m) (c). <sup>20a</sup> The attorney general shall forward any complaint received under this subsection to the board.

\*\*\*\*NOTE: Given that the board is tasked with investigating any complaint received under this subsection, is there any reason for the attorney general to receive complaints?

(5) (4) Notwithstanding s. 5.05 (2m) (c), the board shall promptly review each complaint received under sub. (3). If the board determines that the facts alleged in the complaint, if true, would constitute a violation of sub. (2), the board shall promptly investigate the complaint. Notwithstanding s. 5.05 (2m) (c) 11., if the board finds that a violation of sub. (2) has occurred or is occurring, the board shall take all measures necessary to provide correct information to electors who may have been deceived by the false election-related information, and shall refer the matter to the attorney general for prosecution in accordance with ss. 5.05 (2m) (i) and 12.60 (4).

SECTION 2. 12.60 (1) (a) of the statutes is amended to read:

12.60 (1) (a) Whoever violates s. 12.09, 12.11 ~~or~~, 12.13 (1), (2) (b) 1. to 7., or (3)

(a), (e), (f), (j), (k), (L), (m), (y), or (z), or 12.15 is guilty of a Class I felony.

SECTION 3. 12.60 (4) of the statutes <sup>renumbered 12.60(4)(a) and</sup> is amended to read:

(a) <sup>Except as provided in paragraph (b) prosecutions</sup> 12.60 (4) ~~Prosecutions~~ under this chapter shall be conducted in accordance with s. 11.61 (2), except that prosecutions for alleged violations of s. 12.15 shall be conducted by the attorney general or, if the attorney general declines to prosecute a violation, by the district attorney for the county where the violation is alleged to occur.

SECTION 4. 165.25 (18) of the statutes is created to read:



## SECTION 4

Subject to s. 5.05(2m)(i) ↑

165.25 (18) VOTER INTIMIDATION AND SUPPRESSION. Investigate and prosecute

alleged violations of s. 12.15 or, if the attorney general declines to prosecute an alleged violation, refer

the matter to the appropriate district attorney under s. 12.60 (4) of s. 12.15. All expenses of the proceedings shall be paid from the appropriation under s. 20.455 (1) (d). (b) 2

SECTION 5. 978.05 (1) of the statutes is amended to read:

978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute all criminal actions before any court within his or her prosecutorial unit and, except for actions arising from violations of s. 12.15, have sole responsibility for prosecution of all criminal actions arising from violations of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 and from violations of other laws; arising from or in relation to the official functions of the subject of the investigation or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, that are alleged to be committed by a resident of his or her prosecutorial unit, or if alleged to be committed by a nonresident of this state, that are alleged to occur in his or her prosecutorial unit unless another prosecutor is substituted under s. 5.05 (2m) (i) or this chapter; or arising by referral of the government accountability board under s. 5.05 (2m) (c) 15. or 16. For purposes of this subsection, a person other than a natural person is a resident of a prosecutorial unit if the person's principal place of operation is located in that prosecutorial unit.

(END)

the attorney general shall. subject to s. 12.60 (4)(b) ↑

**2013-2014 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3271/P1ins  
TKK:jld:jm

**INSERT ANALYSIS**

The bill exempts from liability the owner, publisher, printer, agent, or employee of a newspaper or other publication, including an internet publication, or of a radio or television station, including an internet radio or television station, who in good faith and without knowledge of its falsity, publishes false election-related information. ✓

**INSERT 2-END**

1           (3) This section ✓ does not apply to the owner, publisher, printer, agent, or  
2 employee of a newspaper or other publication, including a publication made  
3 available over the internet, periodical, or circular, or of a radio or television station,  
4 including an radio or television station broadcast over the internet, who in good faith  
5 and without knowledge of the falsity thereof, publishes, causes to be published, or  
6 takes part in the publication of false election-related information. ✓

\*\*\*\*NOTE: Does this accomplish your objectives?

(end ins 2-END)

**INSERT 3-23**

7           **SECTION 1.** 12.60 (4) (b) of the statutes is created to read:

8           12.60 (4) (b) 1. Except as provided in subd. 2. and 3., and subject to s. 5.05 (2m)  
9 (i), ✓ the attorney general shall conduct prosecutions for alleged violations of s. ✓ 12.15.

10           2. Except as provided in subd. 3., ✓ if the attorney general declines to prosecute  
11 an alleged violation of s. 12.15, the district attorney for the county where the  
12 violation is alleged to occur shall prosecute the violation. ✓

13           3. If the attorney general declines to prosecute an alleged violation of s. ✓ 12.15  
14 in which the district attorney for the county where the violation is alleged to occur  
15 or a candidate for that office is a defendant in the action, the board may appoint a  
16 special prosecutor to conduct the prosecution on behalf of the state. ✓

**Kuczenski, Tracy**

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**From:** Rep.Barnes  
**Sent:** Tuesday, January 28, 2014 8:32 AM  
**To:** Kuczenski, Tracy  
**Cc:** McGinnis, Cindy  
**Subject:** RE: Draft review: LRB -3271/P2 Topic: Misleading election information

Tracy,

Can I have 3271/P2 jacketed? I'm going to send around for co-sponsorship ASAP.

Sen. Harris will be introducing the senate companion.

-----  
**John Jacobson**

Office of Representative Barnes  
Capitol, Room 9 West  
p: (608) 266-3756  
e: john.jacobson@legis.wi.gov

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**From:** LRB.Legal  
**Sent:** Friday, November 22, 2013 4:25 PM  
**To:** Rep.Barnes  
**Subject:** Draft review: LRB -3271/P2 Topic: Misleading election information

**Following is the PDF version of draft LRB -3271/P2.**



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3271/P2

TKK:jld:jm

RMNR

2013 BILL

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/28/14

Wanted Today (simple change p.3)

Regen

- 1 AN ACT *to renumber and amend* 12.60 (4); *to amend* 12.60 (1) (a) and 978.05  
2 (1); and *to create* 12.15, 12.60 (4) (b) and 165.25 (18) of the statutes; **relating**  
3 **to:** deceptive election practices and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, with certain exceptions, no person may post or distribute any written material that describes the rights or responsibilities of individuals voting or registering to vote at a polling place or absentee voting site during any of the following times: 1) during polling hours at a polling place; 2) while voting is underway at an absentee voting site; or 3) on public property within 100 feet of an entrance to a building containing a polling place or an absentee voting site during polling hours or while absentee voting is underway. A person who violates any of these prohibition may be required to pay a forfeiture (civil penalty) of not more than \$100 for each violation. Also under current law, no person may knowingly make or publish or cause to be made or published a false representation pertaining to a candidate or referendum that is intended to affect voting at an election. A person who violates this prohibition may be fined not more than \$1,000 or imprisoned for not more than six months, or both.

This bill prohibits any person from knowingly providing false election-related information to an individual with the intent to induce an individual to refrain from registering to vote or from voting at an election. The bill defines election-related information as information concerning any of the following: 1) the date, time, place, or manner of conducting an election; and 2) any qualification for or restriction on the eligibility of an elector voting at an election, including any criminal penalty

associated with voting in an election or a voter's registration status or eligibility. A person who violates this provision is guilty of a Class I felony and may be subject to a fine not to exceed \$10,000 or imprisonment not to exceed three years and six months, or both.

The bill exempts from liability the owner, publisher, printer, agent, or employee of a newspaper or other publication, including an Internet publication, or of a radio or television station, including an Internet radio or television station, who in good faith and without knowledge of its falsity, publishes false election-related information.

The bill permits a person who believes a violation has occurred to file a verified complaint with the Government Accountability Board (board). The board must review the complaint to determine whether the alleged facts would constitute a violation. If the board determines that the facts, if true, would constitute a violation, the board must investigate the complaint and, if appropriate, forward the complaint to the attorney general for prosecution. The board must also take any action necessary to provide correct election-related information to those persons who might have received false election-related information. In lieu of prosecuting the action, the bill permits the attorney general to forward the prosecution to the district attorney for the county in which the violation is alleged to have occurred.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1        **SECTION 1.** 12.15 of the statutes is created to read:

2        **12.15 Deceptive election practices.** (1) In this section, "election-related  
3 information" means information concerning any of the following:

4            (a) The date, time, place, or manner of conducting an election.

5            (b) Any qualification for or restriction on the eligibility of an elector voting at  
6 an election, including any criminal penalty associated with voting in an election or  
7 a voter's registration status or eligibility.

8            (2) No person may knowingly provide false election-related information to an  
9 individual with intent to induce an individual to refrain from registering to vote or  
10 from voting at an election.

(3) This section does not apply to the owner, publisher, printer, agent, or employee of a newspaper or other publication, including a publication made available over the Internet, periodical, or circular, or of a radio or television station, including an radio or television station broadcast over the Internet, who in good faith and without knowledge of the falsity thereof, publishes, causes to be published, or takes part in the publication of false election-related information.

\*\*\*\*NOTE: Does this accomplish your objectives? ✓

(4) Any person may file a verified complaint with the board alleging the facts that the person believes to constitute a violation of sub. (2). The verified complaint shall be filed under s. 5.05 (2m) (c) 2. a.

(5) Notwithstanding s. 5.05 (2m) (c), the board shall promptly review each complaint received under sub. (3). If the board determines that the facts alleged in the complaint, if true, would constitute a violation of sub. (2), the board shall promptly investigate the complaint. Notwithstanding s. 5.05 (2m) (c) 11., if the board finds that a violation of sub. (2) has occurred or is occurring, the board shall take all measures necessary to provide correct information to electors who may have been deceived by the false election-related information, and shall refer the matter to the attorney general for prosecution in accordance with ss. 5.05 (2m) (i) and 12.60 (4).

**SECTION 2.** 12.60 (1) (a) of the statutes is amended to read:

12.60 (1) (a) Whoever violates s. 12.09, 12.11 ~~or~~, 12.13 (1), (2) (b) 1. to 7., or (3) (a), (e), (f), (j), (k), (L), (m), (y), or (z), or 12.15 is guilty of a Class I felony.

**SECTION 3.** 12.60 (4) of the statutes is renumbered 12.60 (4) (a) and amended to read:

12.60 (4) (a) Prosecutions Except as provided in paragraph (b), prosecutions under this chapter shall be conducted in accordance with s. 11.61 (2).

1           **SECTION 4.** 12.60 (4) (b) of the statutes is created to read:

2           12.60 (4) (b) 1. Except as provided in subds. 2. and 3., and subject to s. 5.05 (2m)  
3 (i), the attorney general shall conduct prosecutions for alleged violations of s. 12.15.

4           2. Except as provided in subd. 3., if the attorney general declines to prosecute  
5 an alleged violation of s. 12.15, the district attorney for the county where the  
6 violation is alleged to occur shall prosecute the violation.

7           3. If the attorney general declines to prosecute an alleged violation of s. 12.15  
8 in which the district attorney for the county where the violation is alleged to occur  
9 or a candidate for that office is a defendant in the action, the board may appoint a  
10 special prosecutor to conduct the prosecution on behalf of the state.

11           **SECTION 5.** 165.25 (18) of the statutes is created to read:

12           165.25 (18) VOTER INTIMIDATION AND SUPPRESSION. Subject to s. 5.05 (2m) (i),  
13 investigate and prosecute alleged violations of s. 12.15. If the attorney general  
14 declines to prosecute an alleged violation of s. 12.15, the attorney general shall,  
15 subject to s. 12.60 (4) (b) 3., refer the matter to the appropriate district attorney under  
16 s. 12.60 (4) (b) 2. All expenses of the proceedings shall be paid from the appropriation  
17 under s. 20.455 (1) (d).

18           **SECTION 6.** 978.05 (1) of the statutes is amended to read:

19           978.05 (1) CRIMINAL ACTIONS. Except as otherwise provided by law, prosecute  
20 all criminal actions before any court within his or her prosecutorial unit and, except  
21 for actions arising from violations of s. 12.15, have sole responsibility for prosecution  
22 of all criminal actions arising from violations of chs. 5 to 12, subch. III of ch. 13, or  
23 subch. III of ch. 19 and from violations of other laws; arising from or in relation to  
24 the official functions of the subject of the investigation or any matter that involves  
25 elections, ethics, or lobbying regulation under chs. 5 to 12, subch. III of ch. 13, or

1 subch. III of ch. 19, that are alleged to be committed by a resident of his or her  
2 prosecutorial unit, or if alleged to be committed by a nonresident of this state, that  
3 are alleged to occur in his or her prosecutorial unit unless another prosecutor is  
4 substituted under s. 5.05 (2m) (i) or this chapter; or arising by referral of the  
5 government accountability board under s. 5.05 (2m) (c) 15. or 16. For purposes of this  
6 subsection, a person other than a natural person is a resident of a prosecutorial unit  
7 if the person's principal place of operation is located in that prosecutorial unit.

8 (END)



**Barman, Mike**

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**From:** Jacobson, John  
**Sent:** Tuesday, January 28, 2014 10:58 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3271/1 Topic: Misleading election information

Please Jacket LRB -3271/1 for the ASSEMBLY.